

EXHIBIT 1

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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA AT CHARLESTON

JULIA WILLIAMS,

Plaintiff,

v. Civil Action No. 2:1-cv-4162

LOVED ONES IN HOME CARE, LLC
and DONNA SKEEN,

Defendants.

DEPOSITION OF JULIA WILLIAMS

MONDAY, APRIL 16, 2018
2:05 P.M.

LAW OFFICES OF LEWIS GLASSER, PLLC
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1 A Yes.

2 Q All right. But, prior to that, your testimony
3 would be that only the two of you all rotated for call on
4 the weekend?

5 A Yes. Now, when I was in the Ripley office, I
6 did every weekend.

7 Q Yes. All right. But I want to focus just on
8 the Charleston office.

9 A Yes, me and Heather.

10 Q Okay. But that was it? Nobody else
11 participated in that rotation.

12 A I've gotten calls from Donna before on issues,
13 yes.

14 Q Okay.

15 A Now, could I tell you if she called in to the
16 office or they just called her? I can't tell you that.

17 Q Okay. What did you do when you were calling
18 in on the weekends?

19 A What would I do?

20 Q Yeah.

21 A Our first case, we start by 9 o'clock, so I
22 had to get up and call in to the office, to the answering
23 machine. You had prompts you had to do. I couldn't tell
24 you how to do it now. But then there would be messages

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1 on the answering machine, and then I would jot it down.
2 I have client book of their plan of cares, a Waiver and
3 Personal Care. I would have a phone list of the client
4 and the homemakers. Most of the time once I called
5 client, they had my cell phone number. I even got jumped
6 on for that. But then I proceeded to call the client to
7 let them know that their caregiver called off, would they
8 like a caregiver. If they said yes, then I'm on the
9 phone trying to replace that caregiver. If the client
10 says no -- just like in a critical care case, bedfast, if
11 they say no, I call Heather and let them know, because
12 that lady is -- she's bedfast.

13 Q All right.

14 A She never did say she didn't want nobody. She
15 always had to have somebody, but if I couldn't find
16 someone to cover it, Heather Finney-Smith knew about it.

17 Q You would call her?

18 A Correct.

19 Q All right. So every other weekend, how long
20 did you spend making those phone calls? You said you
21 called the phone --

22 A The first thing in the morning.

23 Q At about 9?

24 A Then you dealt with whatever it was.

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1 Q All right. And was there always something to
2 deal with?

3 A Most of the time, yes.

4 Q Okay.

5 A I couldn't recall how many times there wasn't,
6 but yes.

7 Q Okay.

8 A And then every four hours up until our last
9 client which was staffed at 5 p.m.

10 Q So you would call --

11 A On one -- there was some that had up to 9
12 o'clock at night. The latest that our caregivers could
13 be in a home is at 9 at night.

14 Q Okay. So starting at 9 in the morning you
15 would call every four hours --

16 A Yes.

17 Q -- up until 9 at night?

18 A Correct.

19 Q All right. You have produced through your
20 attorney phone records.

21 A Correct.

22 Q All right. And these correlate to your claim.
23 Correct?

24 A Correct.

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1 Q I'm not going to make them an exhibit. This
2 is double-sided. It's a lot of pages.

3 A Yes.

4 Q All right. Have you been through these phone
5 records?

6 A No, I have not.

7 Q Okay. Can you explain to me how you're basing
8 your claim in this case on these phone records?

9 A Because I called from my cell phone.

10 Q Okay.

11 A And the records will show the number on there,
12 and numbers in between the time that I called, and I
13 still know the number. It's 304-744-4081.

14 Q That's the office?

15 A South Charleston's office number.

16 Q All right. Other than looking for that phone
17 number, what other phone numbers would we look at to
18 determine what you did on a given weekend?

19 A That I couldn't tell you without looking at
20 it. And if they would provide a list of caregivers'
21 phone numbers --

22 Q Do you have a list of the caregiver phone
23 numbers?

24 A No, I do not.

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1 Q All right. How much time do you think you
2 spent on the average weekend while you were doing this?

3 A 8 to 10 hours, 10 to 12 hours. I'm not for
4 sure. It's not only -- you had Friday night. You had
5 Saturday up until -- you had Friday night because you got
6 off at 4:30, so I had call until 9 o'clock that night.

7 Q Yes.

8 A Then I had to call on Saturday and then the
9 same thing Sunday up to 9 o'clock Sunday night, and then
10 once I got to the office, that's when we would check the
11 machine after that.

12 Q All right. So you're claiming that you worked
13 on a given Saturday 8 hours? That's what your testimony
14 is?

15 A No.

16 MR. TOOR: That wasn't her testimony.

17 MR. ARCENEUX: Okay. That's what I'm
18 asking her.

19 THE WITNESS: No. What I'm saying is
20 between Friday evening and Sunday night, anywhere from 10
21 to 12 hours.

22 BY MR. ARCENEUX:

23 Q Okay. But what I'm asking you is how much
24 time of that period of time do you think you were

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1 working?

2 MR. TOOR: She just testified.

3 THE WITNESS: 10 to 12 hours --

4 MR. ARCENEUX: Okay.

5 THE WITNESS: -- from the period of Friday
6 night to Sunday night.

7 BY MR. ARCENEUX:

8 Q Well, you only called in every four hours.

9 Correct?

10 A That's correct.

11 Q All right. Are you claiming that you were
12 working for the four hours between that you weren't
13 calling?

14 A No. What I'm claiming is when I did call in
15 and took the time, and if I had to deal with something, I
16 can't sit here and tell you it took me five minutes. It
17 could take me an hour to find a caregiver, to call a
18 caregiver and leave a message I couldn't get a hold of,
19 for her to call me back and say, "Yes, I can go in."
20 Then I'm calling the client to let the client know that
21 she'd be there, and she only can work two hours. Then
22 I'm finding another caregiver to go in for the other two
23 hours. That's what I'm telling you.

24 Q Okay. Let me ask you this. How can I use

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1 those phone records?

2 A That's not for me to answer. That's up to
3 you --

4 Q Okay.

5 A -- to determine.

6 Q Well, do you intend -- I want to ask you a
7 hypothetical question.

8 A Okay.

9 Q Assume I am your lawyer.

10 A Okay.

11 Q We're in court --

12 A Okay.

13 Q -- and I'm going to hand you these phone
14 records and say, "What is your testimony based on these
15 phone records?" What evidence do you intend to offer
16 based on those phone records?

17 MR. TOOR: I'll answer the question
18 because it's a legal question, Jay.

19 THE WITNESS: Okay.

20 MR. ARCENEUX: Wait a minute. I'm asking
21 a factual question. I don't want your answer. I'm
22 wanting to depose this witness.

23 MR. TOOR: And you're asking her how she
24 intends to use these records that I produced in response

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1 from having looked at them, what you concluded?

2 A That I worked.

3 Q Okay. Can you step me through? Did you look
4 at the first page?

5 A No.

6 Q All right. What did you look at?

7 A Here's what I'm going to say. I don't have to
8 look through it. I know I done it. I guarantee if you
9 went through there, you would see the numbers. I know.

10 Q What numbers? That's all I need to know.

11 A 304-744-4081 and, like I said, numbers that
12 they -- You could provide -- your client could provide
13 you with the client and homemakers that corresponds in
14 between each and every time I called the 744 number.
15 That's all I could testify to.

16 Q Let me ask you this. Was this your personal
17 cell phone?

18 A Yes.

19 Q All right. So can I assume that you might
20 have made personal phone calls during that day, as well?

21 A Yes.

22 Q Okay. So not every number listed there --

23 A There again, you're correct, but your client
24 has numbers.

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1 Q Okay. Do you know other numbers that you
2 commonly dialed? Would you have been calling relatives,
3 your children?

4 A I have contacts on my phone. Them number
5 would show, yes.

6 Q All right. Can I look at that and know when
7 those are contacts and when it's to a family member?

8 MR. TOOR: We have no idea if you can do
9 that, Jay.

10 THE WITNESS: No.

11 MR. TOOR: Don't answer that question. We
12 have no idea if you can do that.

13 MR. ARCENEUX: You don't have any right
14 to instruct her not to answer that question. This is a
15 discovery deposition. I'm allowed to ask her questions.

16 MR. TOOR: I didn't want her to answer
17 until I finish my objection. That's why I was
18 instructing her not to answer it yet. Go ahead and ask
19 it again. I'll see if I can get the objection in on time
20 this time to satisfy you.

21 BY MR. ARCENEUX:

22 Q Do you have a list of family members' phone
23 numbers that we could utilize to eliminate the family
24 members from this phone record?

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1 MR. TOOR: I'm going to object. That's
2 outside the scope of discovery.

3 MR. ARCENEUX: She's offered this piece
4 of evidence, and it has thousands of phone numbers.

5 MR. TOOR: Like I said, not our problem,
6 Jay.

7 MR. ARCENEUX: Well, I want to know what
8 she is going to offer with regard to testimony based on
9 this phone record.

10 MR. TOOR: We don't intend to proffer any
11 testimony based on these phone records.

12 MR. ARCENEUX: All right. So will you
13 stipulate that you do not intend to introduce these phone
14 records at the trial of this case?

15 MR. TOOR: No, I'm not going to stipulate
16 to that. I don't intend to do it in my case-in-chief. I
17 don't need to do it in my case-in-chief. I have no idea
18 what you're going to do, and I may need to do it in
19 rebuttal. I'm not going to stipulate to that now.

20 MR. ARCENEUX: Will you stipulate that
21 you're not going to do it in your case-in-chief?

22 MR. TOOR: No. I don't know what else
23 your client intends to produce. I'm looking at a
24 document from May 17, 2014, which was a Saturday. There

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1 to two hours or if she's making a claim that that's what
2 she worked.

3 MR. ARCENEUX: All right. Let me insert
4 the word "average," "on average."

5 BY MR. ARCENEUX:

6 Q Are you claiming that you worked on average
7 one to two hours beyond an eight-hour day each weekday?

8 A No.

9 Q Okay. What are claiming that you worked on
10 average overtime for each weekday?

11 A There again, I can't tell you. It goes back
12 to what we talked about before. It could be one hour
13 this day, nothing this day, all hell breaks loose this
14 day. I can't sit here and tell you if it was one to two
15 hours every day.

16 Q All right.

17 A I could tell you at least one to two hours per
18 week, Monday through Friday.

19 Q Okay. Now, this then says eight to ten hours
20 of actually working time on alternate weekends when you
21 would be on call.

22 A Correct.

23 Q That's a correct statement in your opinion?

24 A Correct.